

Town of Milton Board of Adjustment December 6, 2007

Members Present:

Marion Jones Margo Goodman Matt Dotterer
Larry Savage

Members Absent:

Denise Suthard

Others Present:

Robin Davis John Brady

John Brady: Before we get started tonight, I just wanted to let the people know that Marion Jones, who is a member of the board is participating by speaker phone. That is permitted by the Attorney General in a FOIA decision as long as she can hear everything that is being said and you can hear her. Miss Jones, can you say hello for us?

Marion Jones: Hello.

John Brady: Okay, and that looked like it picked up on the recording. Technically, there is no chair at the moment and Miss Jones and Mr. Savage came on at the same time. And when you rule on who chairs until they vote for a chair, it is alphabetically who was the first one appointed. So Miss Jones technically, alphabetically, is ahead of Mr. Savage. Sorry sir.

Larry Savage: Good.

John Brady: He responded good, so at this point Miss Jones is going to call the Public Hearings to order, then call the meeting to order after the public hearings and then we'll have the nominations and elections of the chairperson, secretary and hopefully at that point we'll be able to proceed and Miss Jones can continue to participate as long as she wishes. Any questions? For the record, this is John Brady, Town Solicitor, so Miss Jones, you are going to call the first public hearing to order.

Item #1: Public Hearings

Marion Jones called the Public Hearings to order at 6:44pm

- a. The applicant, The Grace Church, is requesting a variance of the size limitation for a sign to be constructed at 514 Union Street further identified by Sussex County Tax Map and Parcel # 2-35-14.15-17.00.

Marion Jones: Is there anyone present on behalf of the applicant?

Pastor Paul Simonson: On behalf of Grace Church.

John Brady: Pastor Paul Simonson is here on behalf of the church, Miss Jones.

Marion Jones: Okay. He I cannot hear clearly, I can hear a voice but I can't determine what he's saying.

Pastor Paul Simonson: Maybe if I'm closer you can hear me now?

John Brady: Can you hear him now, we adjusted the microphone.

Pastor Paul Simonson: Pastor Paul Simonson.

Marion Jones: Try it again.

Pastor Paul Simonson: Pastor Paul Simonson from Grace Church.

Marion Jones: I can hear from Grace Church.

John Brady: Okay, we've adjusted another technical adjustment. How's about now?

Pastor Paul Simonson: Pastor Paul Simonson from Grace Church.

Marion Jones: Much better.

Pastor Paul Simonson: Okay.

John Brady: Proceed sir.

Pastor Paul Simonson: We would like to request a variance for the size of our sign. We have a sign proposal that I think that you have been given that is over the size limit for a billboard type sign set by the town and we believe that the sign that we are proposing fits in well with the character of the town and will also help people to know that we are hear as well as the times of our services and maybe other events that may be of interest to the town and so we are just requesting the Board of Adjustment if they would agree to the variance to the size of the sign. We also believe that it's in keeping with the sizes of other church signs that have been put up in recent years and so we would request the Board of Adjustment to do that variance.

Marion Jones: Okay. Is there anyone here speaking behalf of the applicant?

Pastor Paul Simonson: We have just another man from our Church who was intending necessarily to speak on behalf of our church but if you have any questions as well, we'll be glad to answer them.

John Brady: Madam Chair, we did receive a letter today, or actually December 5th. Town of Milton, Federal Street, Milton, DE, re: Grace Church Sign. (John Brady read the letter from Pearl Argo into record).

Marion Jones: Any other on behalf of the applicant? Are there any people present in opposition of the applicant? Any on the Board....

John Brady: Okay. There is a person who's raised their hand. If you could, go to the microphone. How about this? Why don't you just speak at this microphone right up hear.

Dick Greig: I live at 236 Union Street. Could I have a...do you have a picture there of what this sign looks like? Which church is Grace Church?

Pastor Paul Simonson: You mean which church is it?

Dick: There are two churches right there on Union Street.

Pastor Paul Simonson: It's at 510 Union Street right across the street from the cemetery.

Dick: Okay. I got it. That's outside the historic district isn't it?

Pastor Paul Simonson: Yes it is.

Dick: I don't have any questions. Thank you. Hi Marion.

John Brady: Did you hear Mr. Greig's comments.

Marion Jones: I think he said hello and he asked for the position of the church. I have not heard his comments in opposition yet.

John Brady: He's coming back to the microphone.

Marion Jones: Okay. I apologize.

Dick: Yeah, Marion, I would probably question is if it were inside the historic district but it's not and...what is the size of that sir?

Robin Davis: It's approximately 54 s.f. It's a little over 8 foot.

Dick: 5 x 10 roughly?

Pastor Paul Simonson: It's about 7' high in the center and about 8' long.

Dick: Is it going to up against the church or out facing the street?

Pastor Paul Simonson: It's going to be perpendicular to the street in the grassy area between the sidewalk...the two sidewalks that we have in front of the church.

Dick: The sign seems large to me, but because it's not in the historic district, I don't think we have any way of controlling that do we?

John Brady: Miss Jones, did you hear Mr. Greig's comment?

Marion Jones: Only that he didn't have any opposition if it was not seated in the historic district.

Dick: Well, Marion, I said the sign seemed large. It's 7' at the epicenter and about 50-some s.f. but it's not in the historic district and I don't know what we can do about that. I think it's too large a sign for that particular street, but that's just a personal opinion.

John Brady: Mr. Greig said he thought it was too large for the street but it's not in the historic district so he's not sure what could be done. I'm sorry we were trying to adjust the speaker and we had some feedback.

Marion Jones: Question for Mr. Davis, perhaps for all us. The square footage requested of this sign as opposed to what is allowed in that, could you tell me the difference please. I did not get the package being out of town.

Robin Davis: The allowable size for a billboard for churches is 32 sf. The approximate size of this sign overall is about 53 something, 54 s.f.

Marion Jones: If you could, repeat allowable.

John Brady: 32 s.f.

Marion Jones: Thank you.

Dick: If I could make just a comment as well, just in regard to the other church signs, the Goshen United Methodist Church that's on Federal and Mulberry, their size of their sign is about the same height as our and about a 1/3rd larger. Instead of 8 ft wide, it's about 12-1/2 ft. wide. The Wesleyan Church, I didn't exactly measure theirs, but it's a little bit, just a few inches shorter than ours and about a foot and a half smaller on the length-wise...it's about 6-1/2 ft. instead of 8 ft. long. The height of both of those signs is similar to what we're proposing, so it's a little large than the Wesleyan Church sign; it's quite a bit smaller than the Goshen United Methodist sign. And those are ones that have been recently installed.

Marion Jones: Okay. Anyone else want to speak in opposition to the application?

John Brady: Nobody else has signaled that they wish to speak in opposition Madame Acting Chair.

Marion Jones: And so the board will have an opportunity to talk to this applicant again once the public hearing is closed?

John Brady: That's correct.

Marion Jones: Okay. Anything else this applicant wishes to say?

Dick: Not at this time.

Marion Jones: No?

John Brady: The answer was no, not at this time.

Marion Jones: Okay, then we will go to the second public hearing applicant.

- b. The applicant, William Bell, is requesting a variance of the building code pertaining to the minimum ceiling height for habitable rooms. The property is located at 103 North Spinnaker Lane further identified by Sussex County Tax Map and Parcel # 2-35-14.00-402.00.

Marion Jones: Is there anyone present on behalf of the applicant?

John Brady: Yes, Madame acting Chair, I think Mr. Bell is at the microphone now.

Marion Jones: Okay.

William Bell: I am here.

John Brady: Hold on for one second. Try it again.

William Bell: This is William Bell.

Marion Jones: Okay. Proceed please.

William Bell: I am here on behalf of my client who wishes to simply finish and existing walk-up attic in her property located at 103 Spinnaker Lane. Everyone should have a drawing that I submitted for the building permit. The framing, it's all existing and under the, I guess, new way of the Town of Milton doing inspections on remodel projects, the issue of ceiling height comes up, as I said it's an existing structure. There's electricity there; there's a full set of walk-up steps that meet code; there's smoke detectors; the only thing that's not there at this point in time is the window, the skylight, some carpeting, some drywall and some insulation. So we are requesting a variance to the minimum 7'6" ceiling height simply because there's physically not enough space to put a 7'6" high ceiling.

John Brady: Madame acting-Chair, were you able to hear that?

Marion Jones: Yes. Is there anyone on behalf of the applicant that would like to speak in favor of the application?

John Brady: No one else has approached the microphone, Madame acting-Chair.

Marion Jones: Alright. Is there anyone there that would like to speak in opposition of the applicant?

John Brady: Microphone is really lonely tonight. No one approached on that request either.

Marion Jones: Alright. Then we will close the public hearing portion of the meeting.

Item # 2 - Call meeting to order

The meeting was called to order at 6:56 pm.

Marion Jones: I'm afraid you're going to have to help me with who's there.

John Brady: Why don't I have each member who is present identify themselves for the record and then I'll say absent for who's not here. (Members announced themselves)

John Brady: Madame acting-Chair, four members are presents: Mr. Dotterer, yourself, Mr. Savage and Miss Goodman. Miss Suthard is not present tonight.

Marion Jones: Very well.

John Brady: And there is a quorum pursuant to the... a quorum of four members are present.

Item # 3 - Nomination/Election of Chairperson and Secretary

Marion Jones: Okay. The second order of business then will be the nomination and election of a Chairperson first. And I would open the floor to any nominations at this time.

Margo Goodman: I would like to make a motion for Matt Dotterer as Chairperson.

John Brady: Madame acting-Chair, Miss Goodman has made a motion and placed a nomination of Matt Dotterer.

Marion Jones: Motion has been received is there a second?

Larry Savage: I second the motion.

Marion Jones: Mr. Savage seconds the motion. Any other nominations? Then there will be a vote by Roll Call:

Margo Goodman:	Motion to approve
Larry Savage:	Motion to approve
Matt Dotterer:	Motion to approve
Marion Jones:	I agree with the nomination and that would make Mr. Dotterer now as Chairperson, and he can take over the second portion of the nomination if I'm not mistaken.

John Brady: That's correct. Your work as Madame acting-Chair is completed.

Marion Jones: Short lived. (Laughter)

John Brady: Now that we have a newly elected Chair, Mr. Dotterer it's your agenda now.

Matt Dotterer: Okay. Thank you for all you voting for me, I appreciate it. Bear with me for a minute. I would like to open the nominations for Secretary.

Margo Goodman: I'd like to make a motion to appoint Marion Jones as secretary.

Larry Savage: I second the motion.

Matt Dotterer: Nomination for Secretary by Margo Goodman is Marion Jones and second by Larry Savage. Any other nominations for Secretary?

John Brady: You may want to ask if Miss Jones will accept the nomination, Sir.

Matt Dotterer: That's true. Miss Jones, will you accept the nomination?

Marion Jones: I will.

Matt Dotterer: Thank you. Close the nominations?

John Brady: Close the nominations and a Roll Call vote.

Matt Dotterer: We're now closing the nominations and we'll have a Roll Call vote starting with the end:

Margo Goodman:	Motion to approve
Matt Dotterer:	Motion to approve
Larry Savage:	Motion to approve
Marion Jones:	I guess I just accept the nomination.

Matt Dotterer: Thank you. Congratulations.

Marion Jones: Thank you. I hope someone is taking some kind of notes or can be copied from the recording as I will be leaving you. It is rather difficult to conduct and actually hear the applications fully though I do have questions. I believe I have shared those in the proper way and I think I'll be represented.

Matt Dotterer: Thank you. I appreciate it.

Marion Jones: Thank you very much Mr. Brady.

John Brady: Have a good night Ma'am.

Marion Jones: Bye-bye.

Item # 4 & 5 - Additions or Corrections/Approval of Agenda

Matt Dotterer: Does anyone have any additions or corrections to the agenda provided to us.

Margo Goodman: No

Larry Savage: No

Matt Dotterer: Can I have a motion to approve?

Margo Goodman: Motion to approve the agenda.

Larry Savage: I second.

Matt Dotterer: Motion to approve by Margo Goodman, second by Larry Savage. All in "Favor". Opposed – None. The agenda is approved.

Item # 6 - Approval of Minutes – Nov. 1, 2007

Matt Dotterer: Do I have a motion to approve the minutes?

Margo Goodman: No, there are several questions I need to ask.

Matt Dotterer: Okay.

Margo Goodman: Page 14, 2/3rd's of the way down, it states Marion Jones and that's when I spoke. And then the 4th sentence from the bottom and that's when I spoke. And last page, 3rd down line, I spoke there. And the only other item was the closing of the meeting time.

Matt Dotterer: Did you have any changes?

Larry Savage: No.

Matt Dotterer: Motion to approve with the changes?

Margo Goodman: I motion to approve the minutes as adjusted.

Larry Savage: Second.

Matt Dotterer: Motion to approve by Margo Goodman with the changes, second by Larry Savage. All in "Favor". Opposed – None. Approved.

Item #7 - Business

Matt Dotterer: Bear with me please.

- a. The applicant, The Grace Church, is requesting a variance of the size limitation for a sign to be constructed at 514 Union Street further identified by Sussex County Tax Map and Parcel # 2-35-14.15-17.00.

Matt Dotterer: Is anyone here representing the applicant?

Pastor Paul Simonson: Yes. Pastor of Grace Church.

Matt Dotterer: Does anyone here on the board actually have any questions for the applicant?

Margo Goodman: No, I do not.

Larry Savage: I have one question. What is the distance from the sidewalk or the fence, I mean, I'm sorry. What is it...do you have an idea what distance, as far as feet wise or inches, the sign will be from the sidewalk?

Pastor Paul Simonson: I don't have that exactly here. We were going to space it half way in between the two sidewalks so it would be a couple of feet off the sidewalk there.

Robin Davis: Mr. Savage, the ordinance states that it has to be at least 5 ft. away from the sidewalk.

Pastor Paul Simonson: It has to be 5 ft. away from the sidewalk or 5 ft. away from the center of the road?

Robin Davis: The sidewalk.

Pastor Paul Simonson: The sidewalk? Okay.

Matt Dotterer: From actually the property line itself.

Robin Davis: Yes.

Matt Dotterer: Which in this case, the sidewalk is the property line.

Larry Savage: That's all I have.

Matt Dotterer: Anybody else have questions? Okay.

Margo Goodman: I make a motion to approve as submitted.

Larry Savage: I second.

Matt Dotterer: Motion to approve by Margo Goodman, second by Larry Savage. All in "Favor", Roll Call vote:

Margo Goodman: Aye

Larry Savage: Aye

Matt Dotterer: Aye

Matt Dotterer: Motion carried and approved. The next applicant is:

- b. The applicant, William Bell, is requesting a variance of the building code pertaining to the minimum ceiling height for habitable rooms. The property is located at 103 North Spinnaker Lane further identified by Sussex County Tax Map and Parcel # 2-35-14.00-402.00.

Matt Dotterer: Does anybody on the board have any questions?

Margo Goodman: Mr. Bell, I believe looking at this, the main difference that I'm seeing is the ceiling height. Is there any other codes that you are aware of that we would be okaying within refurbishing the attic to make it a habitable room?

William Bell: No, there are not.

Robin Davis: Miss Goodman. This plan was reviewed by First State Inspection Agency. As all plans for additions and things like that has to be approved by them. That's the new Town Ordinance is what Mr. Bell was stating originally. When Earl from First State reviewed it that was one of the two things that was brought up is to just to make sure the smoke detectors were there and that the ceiling height was below the standard. So that's why the variance is just for that.

Margo Goodman: Solely. Okay.

Matt Dotterer: Is that all?

Margo Goodman: Yes it is. Thank you.

Matt Dotterer: I've got a couple questions for you actually. For what room is it going to be used, or what is it going to be used for? That makes a big difference on what it is.

William Bell: It's going to be used for storage. She may put a sofa and a television set up there. Very specifically it will not be a bedroom.

Matt Dotterer: Okay. It sounds like it's not really a habitable room. I mean, according to code, and that's why you're here, it's not considered a habitable room. For example, the stairs actually are right next to the wall. It sounds from your drawing, correct me if I'm wrong, and it's knee wall there that supports those walls?

William Bell: Yes.

Matt Dotterer: So that's a 5'4" height where that knee wall is next to the stairs. So basically, according to international residential code, the stairs are actually supposed to have a 6'8" ceiling height at the top of those stairs and it's basically showing here it's

only 5'4", so actually you should be applying for a variance not only for ceiling height but also for the height of the stairs.

William Bell: I guess my comment to that would be had been cited on the plan review for that, we probably would have.

Matt Dotterer: Sure. Because also according to code, in reference to the windows, you don't really need to have windows unless it is a bedroom. Otherwise it has to be (unintelligible – 7:08:47)

William Bell: Correct. We're putting a window for light.

Matt Dotterer: Yeah. Exactly.

William Bell: Simply for light.

Matt Dotterer: Of course, they're also asking about smoke detectors, hardwire battery back-up, which is required for each floor anyway.

William Bell: And they're actually already there.

Matt Dotterer: The other issue I also was going to ask you about is if its going to be listed as a habitable room, are the current ceiling joists, which are going to be the new floor joists going to be adequate for livable space? Because I know in this area most of those homes were actually modular homes; they were designed for light attic storage...the ceiling joists were, so if you change that over then you're going to have a livable space which is a totally different load. Has that been considered at all?

William Bell: Yes that has been considered.

Matt Dotterer: Okay.

William Bell: And because it is modular as you know, the span of the ceiling joists which will also be floor joists are 13.6, or something less than 14, and there's a bearing wall dead in the middle which would be in the middle of this 8 ft.

Matt Dotterer: Okay.

William Bell: So, if you calculate it in the engineering fashion, the load, you're 90% of the time your load from the second floor is going to be on top of the bearing wall.

Matt Dotterer: Sure. Yes.

William Bell: Which I assume was also supported under the foundation when it was built.

Matt Dotterer: Hopefully, yes. I just want to make sure that if we list this or if we actually approve this that basically we don't have any liability on us because if it turns in to a bedroom, of course we don't have really the inspection of yeah if it's going to be turned into a bedroom or not.

William Bell: Exactly. You will note that however there's no specific closet designed in or anything.

Matt Dotterer: Correct.

William Bell: And I would also note that several, I've been in 3 homes over there, they are finished.

Matt Dotterer: Great. Okay. That's all I really have. So is there any nominations for vote.

Margo Goodman: Well, I do have a question and it's really directed to Robin. This submission lists the building code pertaining to the minimum ceiling height for habitable rooms, and Mr. Bell has just stated that it's not going to be a bedroom or a living/dwelling. Do we need to maybe make an amendment that we have not made a voting on a habitable room?

Robin Davis: Well, he was talking about putting a maybe a couch and stuff up there like if it could possibly be a habitable room. He basically stated it was not going to be a bedroom.

William Bell: Right.

Margo Goodman: Right.

Matt Dotterer: We can approve it with stipulations saying that it cannot be a bedroom, cannot be a...

Margo Goodman: Not approved as a bedroom.

Matt Dotterer: Correct. Yes. Well, do you want to make that a motion to approve it as with the stipulation that is not a bedroom or not to be used as a, basically as a bedroom or living space, sleeping space excuse me, sleeping room.

Margo Goodman: I make a motion to approve with the condition that it is not a habitable room.

Larry Savage: I second the motion.

Robin Davis: Are you saying habitable just as habitable room all together or a bedroom?

Margo Goodman: We can be specific. Want me to put it out there as a specific?

Matt Dotterer: Yes.

Margo Goodman: I make a motion to approve the variance as so that it is not a bedroom dwelling.

Larry Savage: I second the motion.

Matt Dotterer: We need a Roll Call vote:

Margo Goodman: Motion to Approve

Larry Savage: Motion to Approve

Matt Dotterer: Motion to Approve

William Bell: So it's stipulated that it's approved as long as it not used as a bedroom.

Matt Dotterer: That's correct.

William Bell: Thank you.

Matt Dotterer: Thank you.

Item #7 – Adjournment

Margo Goodman: I make a motion to adjourn.

Larry Savage: I second.

Matt Dotterer: Motion was made to adjourn the meeting by Margo Goodman, second by Larry Savage. All in "Favor". Opposed – None.

Meeting for the Board of Adjustments was adjourned at 7:13 P.M.